

REMARKS

In response to the Office Action mailed May 23, 2003, applicants submit the above amendments and the following remarks. After entry of this amendment, the pending claims will be: claims 1, 2, 4, 6-12, 14, 15, 25, 26, 28-36, and 38-44. Reconsideration of the application is respectfully requested.

During a telephone interview on August 12, 2003, it was agreed that the Examiner would withdraw his rejections based on the cited references and that applicant would file this CPA to facilitate a renewed prior art search by the Examiner. The Examiner also recommended that applicants amend the claim to include further definition as to how the claimed "predetermined threshold price" was determined. In response, applicants have amended claims 1 and 25 to recite that the predetermined threshold price is "based on a par value of the trust unit at maturity." Support for this amendment is found in the specification at, *inter alia*, p. 16, ll. 22-24 and p. 24, ll. 15-20.

In paragraphs 4-19 of the Office Action, the Examiner rejects all pending claims 1-2, 4, 6-12, 14, 15, 25, 26, 28-36, 38-44 as obvious under 35 U.S.C. § 103(a) over U.S. Patent No. 5,802,501 to Graff ("Graff") in view of U.S. Patent No. 5,812,987 to Luskin et al. ("Luskin"), CIBC World Markets ("CIBC"), The Canadian Jewish News (2/11/99) ("CJN"), Satyajit, "Structured Notes and Derivative Embedded Securities" (1/96) ("Satyajit"), and U.S. Patent No. 6,321,212 to Lange ("Lange").

For the reasons expressed in applicants' previous Response to Office Action filed October 18, 2002, it is respectfully submitted that the above references, taken alone or in combination, fail to render unpatentable the pending claims.

It is not believed that the above amendments were recommended or required in order to overcome any rejection or potential rejection based on prior art, but rather merely to clarify the pending claims. Accordingly, it is also respectfully submitted that the above amendments of claims 1 and 25 are not narrowing amendments within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 122 S. Ct. 1831 (2002) (see also *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 234 F.3d 558 (Fed. Cir. 2000) (en banc)), since they do not affect these claims' scope.

A Petition for Extension of Time under 37 C.F.R. § 1.136(a) is submitted herewith, requesting that the time for response to the Office Action be extended for a period of 3

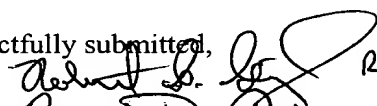
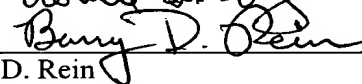
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months from August 23, 2003 to November 23, 2003. It is estimated that no fee, other than the time extension fee, is required for this response. In the event that any additional fee is required, please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

In light of the above amendments and remarks, the Applicants believe that all pending claims are in condition for allowance. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw his rejections and allow the application in its entirety.

Date: November 10, 2003

Respectfully submitted,


for 

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(Reg. No.)

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